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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,471	05/10/2005	Ludger Borgmann	DE020262US	4995
24737 7590 03/04/2011 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
PASS, NATALIE				
ART UNIT		PAPER NUMBER		
3686				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/534,471

Applicant(s)

BORGMANN, LUDGER

Examiner

Natalie A. Pass

Art Unit

3686

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2010 and 23 August 2010
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6, 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 September 2010 has been entered.
2. This communication is in response to the Request for Continued Examination filed 8 September 2010 and the amendment filed on 23 August 2010. Claims 1-2, 7, 11-15 have been canceled. Claims 3, 4, 6, 8 have been amended. Grounds of rejection for claims 3-6, 8-10 are set forth in detail below.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 3-6, 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) Claims 3, 6, 8 recite the limitation "... otherwise ... [...] ...data set corresponding ..." in lines 20-21, 36-37, and 23, respectively. It is unclear what conditions preclude the formation of the second data set.

(B) Claims 4-5, 9-10 incorporate the features of claims 3, 8, through dependency, and are also rejected. See *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990).

5. The rejection of claims 11-15 under 35 U.S.C. 112, first paragraph is hereby withdrawn due to the amendment filed 23 August 2010.

6. The rejection of claims 1-2, 6-7, 11-12, 14 under 35 U.S.C. 112, second paragraph, is hereby withdrawn due to the amendment filed 23 August 2010.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-6, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dewaele, U.S. Patent Number 5757021 for substantially the same reasons given in the previous Office Action (paper number 20100607), and further in view of Watanabe et al., U.S. Patent Number 5751837 and Chaco et al., U.S. Patent Number 5822544. Further reasons appear hereinbelow.

(A) As per newly amended claim 8, Dewaele teaches a method for transmission of data in a diagnostic X-ray system, comprising:

producing imaging data of an X-ray exposure in response to actuation of a start switch of an X-ray apparatus (Dewaele; Abstract, column 6, lines 17-22, column 9, lines 8-12, 50-60), and subsequent to the execution of the X-ray exposure in the X-ray apparatus, generating and transmitting a first data set for being transmitted to a further component of the diagnostic X-ray system (Dewaele; column 6, lines 32-65), the first data set (a) being assembled via a software program of an arithmetic unit started simultaneously with actuation of the start switch (Dewaele; column 7, lines 31-62, column 8, line 45 to column 9, line 12), (b) including one selected from the group consisting of (b)(i) selected parameters, (b)(ii) automatically adjusted parameters, and (b)(iii) both selected and automatically adjusted parameters of the X-ray exposure (Dewaele; column 3, lines 30-40, column 5, lines 13-16, column 6, lines 17-26, column 7, lines 9-12, column 9, lines 8-60, column 12, lines 48-60), and (c) extended with further information for enhancing protection against errors during a transmission of the first data set from the X-ray apparatus, the further information including (c)(i) a “system clock on the tag” (reads on “time stamp”) (Dewaele; column 3, lines 52-55, column 4, lines 36-40), (c)(ii) “a unique manufacturer’s identification number” (reads on “an unambiguous data set identification number” (Dewaele; column 5, lines 61-63); “a unique manufacturer’s identification number” (reads on “an identification number of the X-ray apparatus that transmitted the first data set” (Dewaele; column 5, lines 61-63); an identification number of a mobile patient data terminal (Dewaele; column 6, lines 32-65); and

otherwise forming a second data set corresponding to a completed patient data set that (1) combines (i) parameters of the X-ray exposure (Dewaele; column 6, lines 17-20, column 9, lines

8-51, column 10, lines 1-4, column 12, lines 48-60) with (ii) predetermined patient data associated with the parameters of the X-ray exposure before a new X-ray exposure can be made (Dewaele; column 3, lines 12-14, 30-34, column 5, lines 13-16, column 12, lines 48-60) and (2) ensures that the second data set formed is unambiguously associated with the relevant X-ray exposure which is stored in digital form on an image cassette (Dewaele; column 3, lines 25-46, column 5, lines 32-36, 61-64, column 9, lines 8-51, column 10, lines 1-4, column 12, lines 53-60, column 14, lines 1-7, 31-36).

Although Dewaele teaches transmission of data over the Internet (Dewaele; column 6, lines 44-48), and although Examiner submits that Internet packets use a 32-bit checksum which is transmitted or stored along with the data in order to detect corruption of the data, and although it is the position of the Examiner that one having ordinary skill in the art at the time of the invention would have found it obvious to include use of a checksum within the method disclosed by Dewaele, with the motivation of ensuring accurate transmission of the data, Dewaele fails to explicitly disclose

the terminology "checksum;" and

comparing (i) an identification number of the X-ray apparatus that transmitted the first data set" with (ii) an identification number of a mobile patient data terminal for consistency in order to enable correct association of the received signal with the transmitting X-ray apparatus, and subjecting a date and time of the first data set to a plausibility test, where in an absence of plausibility or in case of errors, first requesting a repeat transmission of the first data set, and

further in as far as a newly received first data set is not plausible or contains errors that cannot be corrected, terminating further evaluation.

However, Watanabe teaches

comparing (i) an identification number of the X-ray apparatus that transmitted the first data set” with (ii) an identification number of a mobile patient data terminal for consistency in order to enable correct association of the received signal with the transmitting X-ray apparatus, and subjecting a date and time of the first data set to a “check mechanism” (reads on “plausibility test”) (Watanabe; column 5, lines 5-46).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Dewaele to include these limitations, as taught by Watanabe, with the motivations of “ ... verify[ing] the secure reception of the transmitted data ... ” (Watanabe; column 5, lines 40-46).

Moreover, Chaco teaches

using a “checksum” for enhancing protection against transmission errors (Chaco; column 14, lines 54-62);

where in an absence of plausibility or in case of errors, first requesting a repeat transmission of the first data set, and further in as far as a newly received first data set is not plausible or contains errors that cannot be corrected, terminating further evaluation (Chaco; column 14, lines 54-62, column 21, lines 14-25, column 34, line 65 to column 35, line 60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined teachings of Dewaele and Watanabe to include these

limitations, as taught by Chaco, with the motivations of “ ... providing “a patient care and communication system capable of performing tasks such as ... [...] ... maintaining patient medical data, facilitating voice, visual and data communications ... [...] ... provide maximum patient care” (Chaco; column 3, lines 8-14).

(B) As per claims 9-10, Dewaele, Watanabe, and Chaco teach a method as analyzed and discussed in claim 8 above

wherein transmitting the first data set includes transmitting to a mobile patient data terminal (Dewaele; column 6, lines 32-65), the method further comprising:

forming a third data set, wherein the third data set comprises parameters of the X-ray exposure (Dewaele; column 6, lines 17-20, column 9, lines 40-51, column 10, lines 1-4, column 12, lines 48-60), preselectable patient data (Dewaele; column 3, lines 12-14, 30-34, column 5, lines 13-16), and an identification number of an image cassette on which the X-ray exposure is stored (Dewaele; column 5, lines 61-64, column 12, lines 53-60); and further comprising:

transmitting the third data set formed by the mobile patient data terminal to a data processing unit (Dewaele; column 6, lines 17-26, column 9, lines 40-51, column 10, lines 1-4, column 12, lines 48-60); and

forming a fourth data set, wherein the fourth data set comprises

the parameters of the X-ray exposure (Dewaele; column 6, lines 17-26, column 9, lines 40-51, column 10, lines 1-4, column 12, lines 48-60),

preselectable patient data (Dewaele; column 3, lines 12-14, 30-34, column 5, lines 13-16), and image data of the X-ray exposure (Dewaele; column 8, lines 29-35, column 9, lines 45-49, column 10, lines 1-4).

(C) Amended apparatus claims 3, 5, repeat the subject matter of amended claims 8, 10, respectively, as a set of elements rather than a series of steps. As the underlying processes of claims 8, 10 have been shown to be obvious over the combined teachings of Dewaele, Watanabe, and Chaco in the above rejections of claims 8-10, it is readily apparent that the system disclosed by Dewaele, Watanabe, and Chaco includes the apparatus to perform these functions. As such, these limitations are rejected of the same reasons given above for method claims 8, 10, and incorporated herein.

(D) Amended system claim 6, repeats the subject matter of amended claim 8, respectively, as a set of elements rather than a series of steps. As the underlying processes of claim 8 have been shown to be obvious over the teachings of Dewaele, Watanabe, and Chaco in the above rejection of claim 8, it is readily apparent that the system disclosed by Dewaele, Watanabe, and Chaco includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claim 8, and incorporated herein.

(E) As per newly amended claim 4, Dewaele, Watanabe, and Chaco teach a mobile patient data terminal as analyzed and discussed in claim 3 above further comprising a bar code scanner for detecting an image cassette identification number, wherein the data transmission unit further forms a third data set by adding the image cassette identification number to the second data set (Dewaele; column 6, lines 32-65, column 8, lines 19-24, column 12, lines 48-60).

Response to Arguments

9. Applicant's arguments at pages 8-11 of the response filed 23 August 2010 have been fully considered but they are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied references, Akagi, U.S. Patent Number 6931421, Creamer et al., U.S. Patent Number 6930709, Hoffberg, U.S. Patent Number 6850252, Jandrell, U.S. Patent Number 5526357, Moriyama et al., U.S. Patent Application Publication Number 2004/0086163, Rhoads U.S. Patent Application Publication Number 2005/0058318, Simmon et al., U.S. Patent Number 6389477, Starkweather et al., U.S. Patent Application Publication Number 2002/0173830, Tsuchino U.S. Patent Number 6879661, teach the environment of transmitting medical data.

11. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to: **(571) 273-8300.**

For informal or draft communications, please label "PROPOSED" or "DRAFT" on the front page of the communication and do NOT sign the communication.

After Final communications should be labeled "Box AF."

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/N. A. P./
Examiner, Art Unit 3686
February 25, 2011

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686